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By:

Melody J. Almberg

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

RE APPLICATION OF: Thomas Ritzdorf *et al.*

APPLICATION No.: 09/386,734

FILED: August 31, 1999

FOR: **METHOD AND APPARATUS FOR LOW-TEMPERATURE ANNEALING OF METALLIZATION MICROSTRUCTURES IN THE PRODUCTION OF A MICROELECTRONIC DEVICE**

EXAMINER: George P. Wyszomierski

ART UNIT: 1742

CONF. NO: 1735

31/MB  
2/12/02

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**Response Under 37 C.F.R. § 1.111**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The present communication responds to the Office Action dated September 6, 2002 in the above-identified application. In that Office Action, the Examiner provisionally rejected claims 186-192, 194-209, and 211-215 under the doctrine of obviousness-type double patenting over certain claims of copending Application No. 09/018,783.

The undersigned disagrees with the Examiner's basis for rejection in this application. In particular, the admitted differences between the rejected claims and the cited claims of 09/018,783 are not merely obvious variants. To establish a *prima facie* case of obviousness, the Examiner would have to establish an appropriate motivation for one skilled in the art to modify the subject matter of the cited claims to arrive at the presently-claimed invention, either within the cited claims themselves or in some other reference. As the Examiner has not articulated any such motivation, the undersigned respectfully submits that the present rejection of claims 186-192, 194-209, and 211-215 is inappropriate.

Even if the Examiner's double patenting argument were otherwise apt, the undersigned submits that it would be appropriate to pass the present application on to issuance because it would be the first to issue. Any obviousness-type double patenting issues which do arise should instead be dealt with in 09/018,783 to avoid any undue delay in issuance of the present application.

Hence, the undersigned submits that the present rejection is improper and that a Terminal Disclaimer is unnecessary. In the interest of promptly concluding prosecution of this application, however, the undersigned has included a signed Terminal Disclaimer. As this should overcome the sole grounds of rejection in this case, the present application is believed to be in condition for allowance, prompt notice of which is courteously solicited. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 264-3848.

Respectfully submitted,

Perkins Coie LLP



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Edward S. Hotchkiss  
Registration No. 33,904

Date: 5 Dec 02

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